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PATENT Entitled  
3/24/97

08/488,195

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Joel A. Ronning Examiner: Pinchus M. Laufer  
Serial No.: 08/488,195 Group Art Unit: 2202  
Filed: 6/7/95 Docket No.: 10678.1US01  
Title: TRY BEFORE YOU BUY SOFTWARE DISTRIBUTION AND  
MARKETING SYSTEM

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Assistant Commissioner for Patents, Box , Washington, D.C. 20231 on February 27, 1997.

By: Leslie E. Dalglish  
Name Leslie E. Dalglish

RECEIVED  
MAR 25 1997  
OFFICE OF THE ASSISTANT COMMISSIONER FOR PATENTS

NOTIFICATION OF ESTABLISHMENT OF SMALL ENTITY STATUS BY  
ERROR AND ERROR IN PAYMENT OF FEES AS A SMALL ENTITY

Assistant Commissioner for Patents  
Washington, D.C. 20231

GROUP 2200

Dear Sir:

On June 7, 1995, a Verified Statement Claiming Small Entity Status was filed in good faith. It has now been discovered that such status as a small entity was established in error, and such small entity status is hereby withdrawn. Because this notification is more than three months after establishment of small entity status, a Verified Statement by the person with knowledge explaining how the error in good faith occurred, and how and when it was discovered, is attached.

Due to the error in claiming small entity status, the following fees were incorrectly paid at the small entity rate:

210 LC 03/13/97 08488195  
1 101 \$13.00 CK  
1 115 \$5.00 CK  
1 203 \$1.00 CK

<u>TYPE OF FEE</u>	<u>DATE PAID</u>	<u>AMOUNT PAID</u>	<u>AMOUNT OWED</u>	<u>DEFICIENCY</u>
Filing Fee	6-7-95	\$469	\$982	\$513
One month extension of time	11-25-96 (Charged to Deposit Account No. 13-2725 on 11/25/96)	\$ 55	\$110	\$ 55
Payment for additional claims	11-25-96 (charged to Deposit Account No. 13-2725 on 12/27/96)	\$ 51	\$102	\$ 51
TOTAL:				\$619

Payment is attached for the sum of \$619, for the deficiency between the amount of fees paid and the amount due at the time of the payment of the deficiency.

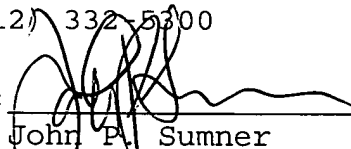
Respectfully submitted,

Joel A. Ronning

By their Attorney(s),

MERCHANT, GOULD, SMITH, EDELL,  
WELTER & SCHMIDT, P.A.  
3100 Norwest Center  
90 South 7th Street  
Minneapolis, Minnesota 55402  
(612) 332-5300

Dated: 2/26/97

By:   
John P. Sumner  
Reg. No. 29,114



08/488,195

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Joel A. Ronning Examiner: Pinchus M. Laufer  
Serial No.: 08/488,195 Group Art Unit: 2202  
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By: Leslie E. Dalglish  
Name: Leslie E. Dalglish

VERIFIED STATEMENT OF JOEL A. RONNING EXPLAINING  
ERROR IN CONNECTION WITH THE SMALL ENTITY STATUS

**RECEIVED**

MAR 21 1997

Assistant Commissioner for Patents  
Washington, D.C. 20231

**GROUP 2200**

Dear Sir:

This verified statement is made by the undersigned, a person having personal knowledge of whether the applicant's business qualifies as a small entity, of how a small entity status error occurred in good faith, and of how and when it was discovered, in connection with the accompanying Notification Of Establishment Of Small Entity Status By Error And Error In Payment Of Fee As A Small Entity.

I, Joel A. Ronning, President of Digital River, Inc., 5198 West 76th Street, Edina, Minnesota 55439, having the above-described personal knowledge, declare that I believed in good faith that Digital River, Inc., the Assignee of the entire right, title and interest in the above-referenced patent application, was a small entity at the time the application was filed. An

Assignment is being executed and filed concurrently with this Verified Statement pursuant to a previous transfer, sale and assignment of any and all patent rights related to the technology described in the above-referenced patent application from myself to Digital River and to specify the filing particulars of the above-referenced patent application for recordation in accordance with 37 C.F.R. §§3.11 and 3.21.

When the above-referenced patent application was filed, a company having more than 500 employees, Fijitsu Limited, was affiliated with Digital River. However, Fijitsu did not have a controlling interest in Digital River at the time the above-referenced patent application was filed, and therefore, I believed that Digital River was a small entity. Prior to filing the above-reference patent application, I discussed the ownership interest of Fijitsu with patent attorney, Lance Vietzke, of Merchant, Gould, Smith, Edell, Welter and Schmidt, P.A. ("Merchant & Gould"), 90 S. 7th Street, 3100 Norwest Center, Minneapolis, MN 55402. At the time, based on this discussion, I believed that Digital River was entitled to claim small entity status. I do not recall discussing any license agreements with Mr. Vietzke at that time, and I did not realize that a license agreement could be material in determining small entity status. Moreover, I do not remember discussing Digital River's small entity status with anyone other than Mr. Vietzke.

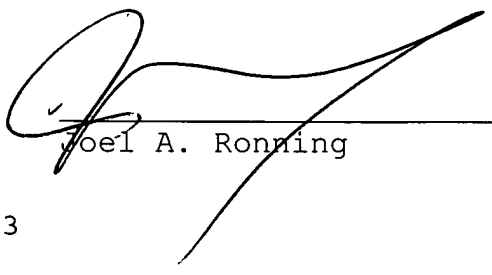
Prior to filing the above-referenced patent application, however, Digital River and Fijitsu had entered into

a license agreement through which Digital River granted a license to Fijitsu for the technology described in the above-referenced patent application. Although I believe that some Merchant & Gould attorneys were involved in the preparation of the Fijitsu license agreement, I do not recall Mr. Vietzke being involved in this licensing work.

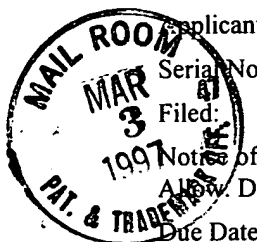
In January 1997, patent attorney John P. Sumner of Merchant & Gould contacted me and told me that he had recently learned that small entity status had been claimed in a patent application in the name of the same applicant (Serial No. 08/475,901), and that he had subsequently obtained and reviewed a copy of the Fijitsu license agreement. At that time, Mr. Sumner stated his belief that Digital River does not qualify for small entity status due to Digital River's license agreement with Fijitsu. I authorized Mr. Sumner to take any necessary steps to correct this error.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 2-14-98

  
Joel A. Ronning

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Joel A. Ronning  
Serial No.: 08/488,195  
Filed: 6/7/95  
Notice of Allow. Date: --  
Due Date: --

Examiner: Pinchus M. Laufer  
Group Art Unit: 2202  
Docket: 10678.1US01  
Batch No.: --

Title: TRY BEFORE YOU BUY SOFTWARE DISTRIBUTION AND MARKETING SYSTEM

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described hereinabove, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on February 27, 1997.

By:   
Leslie E. Dalglish

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Assignment of the invention to Digital River, Inc., Recordation Form Cover Sheet, and fee of \$40
- ☒ Check(s) in the amount of \$619 for deficiency amount for filing as large entity status
- ☒ Other: NOTIFICATION OF ESTABLISHMENT OF SMALL ENTITY STATUS BY ERROR AND ERROR IN PAYMENT OF FEE AS A SMALL ENTITY; VERIFIED STATEMENT OF JOEL A. RONNING EXPLAINING ERROR IN CONNECTION WITH THE SMALL ENTITY STATUS
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT, GOULD, SMITH, EDELL,  
WELTER & SCHMIDT  
3100 Norwest Center, Minneapolis, MN 55402  
(612) 332-5300

By: 

Name: John P. Sumner  
Reg. No.: 29,114  
JPS/LED/jmc

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MAR 21 1997

GROUP 2200